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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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Cung Le, Nathan Quarry, Jon  
Fitch, Brandon Vera, Luis  
Javier Vazquez, and Kyle  
Kingsbury on behalf of  
themselves and all others  
similarly situated,

Case No.:

2:15-cv-01045-RFB-BNW

Plaintiffs,

v.

Zuffa, LLC, d/b/a Ultimate  
Fighting Championship and  
UFC,

Defendant.

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TRANSCRIPT OF HEARING BEFORE

THE HONORABLE RICHARD FRANKLIN BOULWARE, II

September 23, 2019

9:33 a.m. - 12:13 p.m.

Richmond, Virginia

<p style="text-align: right;">Page 38</p> <p>1 Q And after the acquisition of Strikeforce, 2 the UFC obtained some or all of these fighters that 3 I just mentioned, correct? 4 A Correct. 5 Q Let's look at the next division. And here 6 we have light heavyweights consensus rankings 7 during this period, and we can see the top 25; is 8 that right? 9 A Yes. 10 Q And Strikeforce had 10, 11, 13, and 14 and 11 19. And after the Strikeforce acquisition, I 12 believe the UFC acquired all but Dan Henderson; is 13 that right? 14 A I believe so. 15 Q And eventually UFC got Dan Henderson; is 16 that right? 17 A Yes. 18 Q Okay. 19 A Which Dan Henderson fought for UFC before 20 that. 21 Q Right. Okay. 22 And in this e-mail, as you explained to me 23 at your deposition, you were showing your managers, 24 your bosses, Dana White and Lorenzo, how successful 25 you and Sean Shelby had been at signing the top MMA</p>	<p style="text-align: right;">Page 40</p> <p>1 THE COURT: Overruled. I'll allow it. 2 He seems to be fairly knowledgeable in this 3 area. 4 So, Mr. Silva, you understand what 5 these tiers were, right? 6 THE WITNESS: Correct. I did not 7 create this document, but -- 8 THE COURT: But you understood what the 9 tiers were that were referenced in the 10 document, I assume? 11 THE WITNESS: Yes. 12 THE COURT: Okay. And what are they? 13 THE WITNESS: Well, what you saw them 14 at is the minimum if -- amount that we pay the 15 smallest contract. 16 THE COURT: So Tier 1 would be the 17 minimum amount? 18 THE WITNESS: Correct. 19 THE COURT: And Tier 2 would be what? 20 THE WITNESS: It's anything over that, 21 as it progresses up. But I don't understand 22 how they got to anything above that because it 23 could vary then greatly depending on how well 24 you did. 25 THE COURT: Well, I'm sorry. Are you</p>
<p style="text-align: right;">Page 39</p> <p>1 talent and the majority of the top fighters in all 2 of the divisions you identified, right? 3 A Correct. 4 Q And just to summarize this, you would agree 5 with me that after the Strikeforce acquisition, the 6 UFC's share of the top 25 fighters in all of these 7 weight classes listed went up, higher than it was 8 in February of 2011, correct? 9 A Correct. 10 Q All right. You can put that document aside. 11 All right. Let me turn back to where I was and ask 12 you about -- oh, put up the minimum document. 13 His Honor had a question about the number of 14 fighters being paid at the lower level. I just 15 want to draw your attention to this aspect of the 16 document. 17 The assumptions of the document was that 18 under Tier 1, which is the first tier of percentage 19 of bouts at show, pay tiers, Tier 1 has less than 20 17,000. So am I correct that this -- 21 MS. GRIGSBY: Well, I'm just going to 22 object, because he hasn't laid a foundation 23 with this witness that he's knowledgeable. I 24 mean, the witness just testified he didn't 25 know. There's no --</p>	<p style="text-align: right;">Page 41</p> <p>1 saying you didn't -- when they created the 2 document, you didn't understand what these 3 tiers were? 4 THE WITNESS: Correct. I disagreed in 5 general with a lot Danny's projections. I did 6 not understand how they got to them. 7 THE COURT: Well, it looks like they're 8 showing actual difference -- 9 THE WITNESS: Right. But after a first 10 contract is over -- 11 THE COURT: Right. 12 THE WITNESS: -- you might negotiate, 13 as has happened after the second fight of a 14 fighter's contract, and that throws that off. 15 Or you might let them fight their contract 16 out, and that would affect where it goes. 17 I think they're trying to come up with 18 an average, where they're trying to figure it 19 out. But there was no lockstep way of, if 20 this is what the first contract was, this is 21 what the second contract is. 22 BY MR. CRAMER: 23 Q Right. You're saying that pay of UFC 24 fighters reflected their popularity and performance 25 as they went forward, correct?</p>

<p style="text-align: right;">Page 42</p> <p>1 A Correct. And it could vary greatly.      2 Q Right. But you tried to pay fighters in      3 accord with what you believed they were bringing to      4 the table in terms of their performance, how you      5 expected them to perform, and how popular they were      6 with the fans, correct?      7 A Well, there's a lot more things that go into      8 it.      9 THE COURT: Well, what else would go      10 into -- I mean, other than looking at their      11 popularity, their rank, and their ability to      12 draw fans, what else would you look at besides      13 that?      14 THE WITNESS: Well, a huge thing that      15 would affect me is -- which was out of my      16 control, but they would bring to me, is they      17 would go, hey, two months from now we're going      18 to do a show in Poland. And I don't have any      19 Polish fighters. There was nobody in Poland      20 who particularly interested me, but I'd have      21 to go out now and go find some. And is it      22 going to now put a new premium on Polish      23 fighters. This isn't I can take it or leave      24 it. It's like I have to find Polish fighters,      25 and whatever it cost me to get those fighters,</p>	<p style="text-align: right;">Page 44</p> <p>1 that's not necessarily the question I'm      2 asking. I'm trying to figure out the      3 percentages here. And there may have been --      4 THE WITNESS: Right.      5 THE COURT: -- shows here. So would      6 you say that three-fourths of the fights for      7 the UFC were in the United States?      8 THE WITNESS: Probably.      9 THE COURT: Okay. And so I'm not      10 saying you didn't have some fights, I'm trying      11 just to get some sense of the numbers.      12 THE WITNESS: Right.      13 THE COURT: And so -- because in the      14 last few slides, it looked like UFC had      15 control over most of the fighters at this time      16 in certain weight classes, and so that's why      17 when you say you had to go outside to get      18 fighters for certain international fights, I      19 want to just get a sense of how often that      20 happened.      21 THE WITNESS: Quite often, because if      22 he had told me we were going to have one show      23 in Korea, they're not only going to fight in      24 Korea, they will fight in those other shows      25 that are in the United States. I owe them</p>
<p style="text-align: right;">Page 43</p> <p>1 I now have to do because they've told me we're      2 doing a show in Poland.      3 THE COURT: Well, I understand that.      4 But my understanding is that most of the      5 fighters for the UFC at this time were in the      6 United States; is that right?      7 THE WITNESS: No. We did a lot of      8 international shows.      9 THE COURT: When you say "a lot,"      10 Mr. Silva, you have to be very specific.      11 THE WITNESS: Right. But even if they      12 said -- if they said we're going to do one      13 show --      14 THE COURT: Let me help you. So what      15 percentage of the fights the UFC put on around      16 this time, 2011, were in the United States?      17 THE WITNESS: I don't know      18 percentage-wise, but I can --      19 THE COURT: Well, was it more than      20 half?      21 THE WITNESS: Yeah, I'd say more than      22 half. But if they told me we had one show in      23 Korea --      24 THE COURT: Well, I understand that.      25 So I appreciate what you're talking about, but</p>	<p style="text-align: right;">Page 45</p> <p>1 more than one fight when we do multi-fight      2 deals.      3 But simply knowing -- if they tell me,      4 hey, this year we're going to do a show in      5 Korea, a show in Japan, multiple shows in      6 Brazil, shows in Europe, I have to get talent      7 for all of those. And then I will have to get      8 them fights, three fights a year, average.      9 So they'll fight besides just in Korea      10 or Japan or wherever they're from. I      11 definitely have to have them for that one      12 show. But to get their other fights, they      13 will then fight in other shows that I have.      14 THE COURT: So going back to the issue      15 of them and how you would assign or pay the      16 fighters, other than these international      17 fights where you may have to find someone for      18 that local area, other than the rank and the      19 popularity of the fight, what else would you      20 look at?      21 THE WITNESS: Well, just like it      22 wouldn't have to be a country too. It could      23 be a city. If we were going to a big city and      24 they're like, do you have anybody local,      25 somebody for PR that would be good for us for</p>

1 that city. And I'd have to try and find that  
2 person and pay what it would take to get him.

3 If you had somebody -- say there's a  
4 local promotion and this guy is the local  
5 hero, like it would be good to pick him up for  
6 this show because we're doing it in this show,  
7 then we'll get local PR and sell local  
8 tickets.

9 THE COURT: Right. I understand that.  
10 But I'm saying it seems to me, at least from  
11 what I've heard about the business, there are  
12 a fair number of fighters who are known  
13 nationally, that if you didn't -- because of  
14 their popularity, you wouldn't have to find a  
15 particular heavyweight or other fighter who is  
16 just on a particular city, I'm saying in Las  
17 Vegas or New York, because they were known  
18 nationally.

19 And so other than the idea of  
20 potentially scouting local talent, what else  
21 did you look at to determine a contract for a  
22 fighter?

23 THE WITNESS: Well, his level of  
24 competition. So we had some -- what kind of  
25 swelled the ranks, as I said, were these

1 THE WITNESS: I think that has a lot to  
2 do with it. If you did not have the amount of  
3 injuries that we have, I think those numbers  
4 would be vastly different.

5 THE COURT: But then it looks like, if  
6 you look at these numbers, 83 percent of these  
7 fighters are in Tier 1 or Tier 2, right? Less  
8 than 30,000; is that right?

9 THE WITNESS: Correct.

10 THE COURT: And is part of that due to  
11 what you're talking about, which is obtaining  
12 these individual fighters?

13 THE WITNESS: Yeah, I would say -- just  
14 say on average if we had to sign three guys as  
15 injury replacements per show, and we do 44  
16 shows a year, that's a lot of fighters being  
17 added.

18 THE COURT: And it looks like many of  
19 them, kind of the majority of them, would come  
20 in under the standard first contract, minimum  
21 contract?

22 THE WITNESS: Right. As I said, they  
23 are guys who I not necessarily -- like, this  
24 isn't a guy I really want; it's like, this is  
25 a guy I need because I owe this other guy a

1 last-second replacement fights, which we had a  
2 huge number of.

3 This sport is very physically  
4 demanding. So in my entire career, I've done  
5 maybe one card where somebody didn't drop out  
6 injured. And I've had cards where more than  
7 half the scheduled fighters dropped out  
8 injured. So when that happens, I still owe  
9 their opponent a fight. So I would prefer to  
10 take somebody who is already under contract  
11 and have them step in and fight, but those  
12 fighters are like, why am I going to take that  
13 risk, I didn't have a full training camp to  
14 prepare for this, I already have a UFC  
15 contract, I'm good.

16 So I have to usually get somebody from  
17 outside who is looking to get their first shot  
18 with the UFC. So those type of fighters quite  
19 often would be more that entry level. It's  
20 like this is not really somebody I wanted to  
21 sign, but I'm kind of being forced to to get  
22 this other guy his fight.

23 THE COURT: So that's why it says  
24 66 percent of people in that first tier were  
25 --

1 fight.

2 THE COURT: So in order to fill sort of  
3 gaps or holes in the ticket that would arise,  
4 you would bring in these fighters and sign  
5 them to these contracts?

6 THE WITNESS: Yes, sir.

7 THE COURT: All right. And then you're  
8 not finding them any more fights after the one  
9 fight you acquired them for; is that right?

10 THE WITNESS: No. I did give them a  
11 standard contract. And it was my practice, I  
12 knew you were coming in short notice, so it's  
13 not the best circumstances, and it's a jump up  
14 in competition for you. So it was very rare  
15 that if you lost that fight that I would cut  
16 you. I was usually going to give you another  
17 opportunity.

18 THE COURT: Okay. Thank you.

19 BY MR. CRAMER:

20 Q I want to go back to your statement that  
21 you -- when the UFC was putting on a show in  
22 Poland, you would look for a fighter popular in  
23 Poland, or if the UFC was putting on a show in  
24 Buffalo, you would look for a fighter popular in  
25 Buffalo.

<p style="text-align: right;">Page 50</p> <p>1 I asked you whether the UFC looked to pay      2 fighters based on their popularity and their      3 performance. So the latter of three, popular in      4 Poland or Buffalo, or Poland in popularity, you're      5 looking for fighters who can generate interest with      6 the audience, correct?</p> <p>7 A Yes.      8 Q Yes.</p> <p>9 And when the UFC put on shows in Poland or      10 Buffalo, those were typically broadcast into      11 North America, correct?</p> <p>12 A Well, it would depend on -- like, where on      13 the card they're at, though.</p> <p>14 Q But the show itself would be broadcast --      15 the main part of the show would be broadcast into      16 North America?</p> <p>17 A The main part, yes.</p> <p>18 Q Or be on Pay-Per-View?</p> <p>19 A Yes.</p> <p>20 Q Or both?</p> <p>21 A Correct.</p> <p>22 Q Okay. All right. Let me take you to      23 Exhibit PCCX-391, it's a series of e-mails between      24 you and Bas Boon between May 19, 2009, and      25 January 29, 2011.</p>	<p style="text-align: right;">Page 52</p> <p>1 today.      2 MR. CRAMER: Okay. Very good. Thank      3 you, Your Honor.</p> <p>4 THE COURT: For both sides' documents,      5 so whatever was offered previously.</p> <p>6 Go ahead, Mr. Cramer.</p> <p>7 MR. CRAMER: Thank you, Your Honor.</p> <p>8 BY MR. CRAMER:</p> <p>9 Q On page 3, there's this e-mail dated May 19,      10 2009, where you discuss a potential offer to      11 Einemo, and it was a four-fight contract, and you      12 offered compensation starting at 15 and 15, and you      13 proposed to increase that 2 and 2 for each win; is      14 that right?</p> <p>15 A Yes.</p> <p>16 Q And it was a four-fight deal; is that right?</p> <p>17 A Yes.</p> <p>18 Q All right. Now let's go to page 2. At the      19 bottom -- yeah, it carries over to page 3. Also on      20 May 19, 2009, Boon sends you an e-mail in which he      21 tries to negotiate higher compensation.</p> <p>22 And towards the bottom of page 2, you      23 responded to Boon's efforts to get more money for      24 his client, writing, quote -- where is the bottom      25 of page 2? On the top of page 2. I'm sorry.</p>
<p style="text-align: right;">Page 51</p> <p>1 Before I ask you about the document in      2 particular, Boon is a fighter representative; is      3 that right?</p> <p>4 A Yes, sir.</p> <p>5 Q And in this series of e-mails, Boon was      6 trying to get you to sign one of his fighters to      7 the UFC, John Einemo; is that right?</p> <p>8 A Einemo.</p> <p>9 Q Einemo, E-I-N-E-M-O. Is that right?</p> <p>10 A Yes, sir.</p> <p>11 Q Okay. So turn to page 3 of this document,      12 please.</p> <p>13 THE COURT: Now, have all of these      14 exhibits been admitted? I want to make sure,      15 because I know one of the things we have to      16 make sure we do is confirm what's on the      17 record as to whether it's been admitted or      18 whether it needs to be admitted into the      19 record here, Mr. Cramer.</p> <p>20 MR. CRAMER: Well, these have all been      21 submitted. This is PCCX-391.</p> <p>22 THE COURT: Okay. And have I actually      23 formally admitted all of those documents? I'm      24 not sure that I have. We can make sure that      25 we do that at the close of the proceeding</p>	<p style="text-align: right;">Page 53</p> <p>1 There you go.</p> <p>2 Top of page 2, Wednesday, May 20th, 2009,      3 you responded to Boon's efforts to get his client      4 more money. You say: "As I said, I have a pay      5 structure. I cannot mess it up for one fighter. I      6 have to justify that to all the other managers."</p> <p>7 You wrote that, correct?</p> <p>8 A Correct.</p> <p>9 Q All right. You can put that document aside.      10 And I'd like to show you another document      11 with a similar theme. It's PCCX-338, and it's an      12 e-mail dated October 10, 2007, in which you were      13 writing to someone named Ali Almeida --</p> <p>14 A Almeida.</p> <p>15 Q -- Almeida, A-L-M-E-I-D-A, regarding a      16 fighter named Ricardo Almeida.</p> <p>17 And on page 2 you write -- page 2. And in      18 the box there on October 10th you write to      19 Mr. Almeida: "As I said, I have 200 fighters under      20 contract, and our purses are public. I have to      21 justify to all my other fighters what I pay out."  <p>22 There are people under contract to me now that are      23 not making as much as I offered Ricardo, and they      24 are better known to our fans and have more UFC      25 fights than he does."</p> </p>

<p style="text-align: right;">Page 54</p> <p>1 Q Do you recall writing that?</p> <p>2 A Yes.</p> <p>3 Q Okay. So one of the tools you used to negotiate with fighters was to try and place your offer that you're giving to the fighter in the context of what you believed were comparable fighters or even better fighters getting a similar or lesser deal; is that right?</p> <p>4 A Well, as it says here, I'm offering Ricardo more money than people who are now in the UFC, so --</p> <p>5 Q Right. So you're trying to justify the pay --</p> <p>6 A Correct.</p> <p>7 Q -- to this fighter by saying, hey, there are some other people who may even be better than you that are getting less?</p> <p>8 A Correct.</p> <p>9 Q So you're trying to convince the fighter that you're treating him fairly; is that right?</p> <p>10 A Yes. Whenever I've dealt with fighters, I have tried to be able to justify my offer.</p> <p>11 Q And one of the tools you used to negotiate with fighters was to place the offer in the context of these fighters, and you did that to try to,</p>	<p style="text-align: right;">Page 56</p> <p>1 A Correct.</p> <p>2 Q All right. Now I'd like to turn to a document PCCX-255, and it's a series of e-mails between you and Sven Bean regarding a fighter known as Bang, B-A-N-G. And the top e-mail here is dated December 9, 2010.</p> <p>3 Q Do you recall this series of e-mails?</p> <p>4 A Yes, sir.</p> <p>5 Q Does Bang refer to Duane "Bang" Ludwig?</p> <p>6 A Yes.</p> <p>7 Q Okay. And I'd like to show you the first e-mail in the chain on page 3.</p> <p>8 A Yes.</p> <p>9 Q It's from you to Mr. Bean, who is representing Mr. Bang, or Bang, and you offer him a new four-fight deal before Bang's last fight in his prior contract.</p> <p>10 Q And you say: "He is on his last fight at 14 and 14. I'll drop that and give him a new deal at 16, 16; 18, 18; 20, 20; and 22, 22."</p> <p>11 A Do you see that?</p> <p>12 Q Okay. And that was the offer, correct?</p> <p>13 A Yes.</p> <p>14 Q And turn to Mr. Bean's response in the</p>
<p style="text-align: right;">Page 55</p> <p>1 Q again, align the pay with expected performance and popularity of the fighter, correct?</p> <p>2 A Well, the potential.</p> <p>3 Q Right. Expected performance. Their potential popularity --</p> <p>4 A Unexpected is the possibility, because quite a few do not.</p> <p>5 Q Right. You don't know.</p> <p>6 A (Nods head up and down.)</p> <p>7 Q But what you're trying to do is align the pay of what you expect their performance and popularity to be?</p> <p>8 A Well, then I could -- when somebody else came to me and said, why did you give this to this guy, then I could verbalize, here are part of the reasons why, we're in Brazil and he's Brazilian, he's got this following, he's a Brazilian Jiu-Jitsu world champion, and that's something that factored into it. So I'd have to list all of the reasons why so that the dealers know you're just pulling numbers out arbitrarily.</p> <p>9 Q Right. You're trying to justify the pay based on objective facts, correct?</p> <p>10 A Correct.</p> <p>11 Q Correct?</p>	<p style="text-align: right;">Page 57</p> <p>1 middle of page 2. On December 8th, he asked for 2,000 more to win and show. Okay.</p> <p>2 Q Can I please ask that if we go ahead and sign four more fights, we'd be able to start at 18, 18?"</p> <p>3 A So he wants a little bit more than you offered.</p> <p>4 Q And I'd like to show you your response, which is on the top of page 2.</p> <p>5 A You tell him: "Everybody has it tough. I have to do what is fair for everyone. You make what you make based on performance and popularity."</p> <p>6 Q Do you see that?</p> <p>7 A Yes.</p> <p>8 Q And those were your words, correct?</p> <p>9 A Correct.</p> <p>10 Q And by "performance and popularity," you meant what we've been just talking about, that fighters are paid on your view and the UFC's view as to the expected fan interest and the fighter's expected performance when they fight, correct?</p> <p>11 A Right. Because the manager is trying to make an appeal to personal issues that he's having, and I'm letting him know I can't take personal issues into account, I'm basing it on your</p>

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1 performance and your popularity.	1 applied equally across the fighters. So in
2 Q Right. And in other words, if a fighter is	2 other words, you would look at the popularity
3 expected by you or the UFC to generate more fan	3 and performance of the fighters the same; you
4 interest, you are willing to pay him more relative	4 wouldn't favor one fighter or another in terms
5 to a fighter that you believe is expected to	5 of that evaluation, correct?
6 generate less fan interest, correct?	6 THE WITNESS: Correct. But instead, it
7 A Correct.	7 would just weigh differently for different
8 Q Turn to page 1. And this is your last	8 fighters.
9 e-mail to Mr. Bean, at the top of the document.	9 THE COURT: Right.
10 And you're pretty firm here.	10 THE WITNESS: That problem does not
11 You say to him: "I'm not trying to be a	11 apply to everyone.
12 dick, but no, everyone knows what everyone makes.	12 THE COURT: No, I understand that.
13 Our purses are public. I have to justify	13 What I'm saying is that in terms of that
14 everyone's pay to everyone else."	14 assessment --
15 Do you see that?	15 THE WITNESS: Yes.
16 A Yes.	16 THE COURT: -- on performance and
17 Q And you said that, right?	17 popularity, you would try to apply that evenly
18 A Correct.	18 across the fighters, right?
19 Q And I'd like to show you -- I asked you	19 THE WITNESS: Yes.
20 about this at your deposition, and I'd like to show	20 THE COURT: Right?
21 you your testimony about it at your deposition.	21 THE WITNESS: Yes.
22 A Yes.	22 THE COURT: Okay.
23 Q This is at 372 to 373 of your deposition.	23 BY MR. CRAMER:
24 I asked you: "And so you wanted to make	24 Q And I asked you on page 373, and I'll ask it
25 sure that you did your best to try to make sure	25 to you right now in the context of this back and
Page 59	Page 61
1 that comparable fighters with comparable" --	1 forth: "You attempted, at least in your mind, to
2 THE COURT: So, Mr. Cramer, you don't	2 be fair, to impose a sense of equity between the
3 need to read the deposition. If you want to	3 different fighters, correct?"
4 ask him the question, then you can ask him the	4 Is that right? That's what you were trying
5 question. If he doesn't answer it the way he	5 to do, be fair to the fighters?
6 answered in the deposition, then you can just	6 A Could you define "equity" for me?
7 then read in the deposition.	7 Q Treating fighters based on the objective
8 MR. CRAMER: Okay. Fine. I'm going to	8 factors that you were talking about.
9 ask the same question.	9 THE COURT: I think, Mr. Cramer, he
10 BY MR. CRAMER:	10 just answered that question. That was the
11 Q So with this back and forth that we just	11 question, I think, that I asked him.
12 looked at, you wanted to make sure that you did	12 MR. CRAMER: Okay. Thank you.
13 your best to make sure that comparable fighters	13 BY MR. CRAMER:
14 with comparable records are getting paid comparable	14 Q Let me just clarify. One way you conveyed
15 amounts; is that fair?	15 to managers and fighters that you were negotiating
16 A Right, but it's not just on records.	16 with that you were dealing with them fairly was to
17 THE COURT: Okay. But you wanted to	17 tell them honestly where their compensation fit
18 have a -- Mr. Silva, you wanted to have a	18 relative to other fighters at their level; is that
19 comparable pay scale for fighters. You	19 right?
20 wouldn't just have arbitrary numbers, right?	20 A Yes.
21 THE WITNESS: Correct. That I would	21 Q Okay. And do you recall telling me that
22 have different factors that I could verbalize	22 fighters or their managers wanted to be treated
23 and say, yes, this is why.	23 unfairly in their favor?
24 THE COURT: Right. You want to be able	24 A Yes. I mean, a manager is doing his job;
25 to explain it. But those factors would be	25 he's doing everything in his power to get the most

<p style="text-align: right;">Page 62</p> <p>1 that he can for his client.</p> <p>2 Q Right. And the way you dealt with a manager</p> <p>3 in that situation was to try to compare his or her</p> <p>4 fighter to other fighters that you believed were</p> <p>5 similar or better, and explain that the fighter</p> <p>6 with whom you were negotiating is being treated the</p> <p>7 same or better as compared to the other fighter; is</p> <p>8 that fair?</p> <p>9 A That's fair.</p> <p>10 Q And you believed that if you were to raise a</p> <p>11 fighter's pay above what a comparable or better</p> <p>12 fighter was being paid, either by accident or in</p> <p>13 response to a manager's inquiry, that could</p> <p>14 potentially cause you problems across the board</p> <p>15 with other fighters and managers; is that right?</p> <p>16 A Correct.</p> <p>17 Q Thank you.</p> <p>18 And you told me at your deposition you</p> <p>19 wanted to be able to tell fighters that they were</p> <p>20 being treated fairly relative to other fighters</p> <p>21 with similar skills and records and popularity,</p> <p>22 correct?</p> <p>23 A Right. And there's other factors too. As</p> <p>24 long as I could explain it, one thing is that you</p> <p>25 have certain fighters who -- as I said, people are</p>	<p style="text-align: right;">Page 64</p> <p>1 In order to fight within the UFC, Zuffa</p> <p>2 requires fighters to sign what Zuffa called the</p> <p>3 exclusive for both Promotional and Ancillary Rights</p> <p>4 Agreement, correct?</p> <p>5 A Correct.</p> <p>6 Q Okay. And at the time of your deposition,</p> <p>7 you were not aware of any fighter that Zuffa had</p> <p>8 allowed to compete in the UFC without signing one</p> <p>9 of those exclusive contracts; is that right?</p> <p>10 A Correct.</p> <p>11 Q And you're not aware of any fighter fighting</p> <p>12 in the UFC today that did not sign one of UFC's</p> <p>13 exclusive contracts?</p> <p>14 A I'm not aware.</p> <p>15 Q Okay. And it's fair to say that in your</p> <p>16 negotiations with fighters, you understood that</p> <p>17 this exclusive fighter agreement had certain</p> <p>18 standard provisions that Zuffa expected its</p> <p>19 fighters to sign and agree to, correct?</p> <p>20 A Correct.</p> <p>21 Q And it's fair to say that the end of a term</p> <p>22 of a standard UFC fighter's contract, the contract</p> <p>23 typically provided a 90-day exclusive negotiation</p> <p>24 period; is that right?</p> <p>25 A Correct.</p>
<p style="text-align: right;">Page 63</p> <p>1 very hesitant to take last-notice fights because</p> <p>2 it's a big risk, you haven't had a full training</p> <p>3 camp to prepare, but there are some fighters who</p> <p>4 have repeatedly done that. So their manager might</p> <p>5 come back and remind me -- because you're dealing</p> <p>6 with so many fighters, you might forget. So I go,</p> <p>7 hey, here is a new deal, I'll offer it. And the</p> <p>8 manager, if he's a good manager, he'll come to you</p> <p>9 and go, you know, this guy stepped up for you,</p> <p>10 three times he fought for you short notice, maybe</p> <p>11 he didn't win every time, but he's always been</p> <p>12 there for you. Don't you think that's worth more</p> <p>13 money?</p> <p>14 And I'd look at him and go, yeah, you're</p> <p>15 right, he did, he did me a solid, let's give him</p> <p>16 more money. But if somebody then asks about that,</p> <p>17 then they go, wait, you're saying, you know,</p> <p>18 because I won this many fights, I'm getting this,</p> <p>19 why does that guy get that? And I can then say,</p> <p>20 this guy stepped up three times late notice; he had</p> <p>21 a reason outside of why I would pay him more than</p> <p>22 somebody else with a similar record or a similar</p> <p>23 popularity.</p> <p>24 Q Fair enough. All right. Let me change</p> <p>25 topics a little bit.</p>	<p style="text-align: right;">Page 65</p> <p>1 Q And during that period, Zuffa was the only</p> <p>2 promotion that could bid on the services of that</p> <p>3 fighter, correct?</p> <p>4 A Correct.</p> <p>5 Q Okay. And following the exclusive</p> <p>6 negotiation period, Zuffa's standard contracts</p> <p>7 typically also had a right to match any offer that</p> <p>8 the fighter got from another promoter, correct?</p> <p>9 A Correct.</p> <p>10 Q And that right-to-match period typically</p> <p>11 lasted for one year; is that correct?</p> <p>12 A Correct. But we would have to -- if</p> <p>13 somebody had an offer, we would have to deal with</p> <p>14 it immediately.</p> <p>15 Q Right. So if somebody got an offer, you</p> <p>16 would have to deal with it, and you decided whether</p> <p>17 to respond. But if Zuffa did respond, then the</p> <p>18 negotiation was over, correct?</p> <p>19 A Correct.</p> <p>20 Q Okay. Between the 90-day exclusive</p> <p>21 negotiation period and the one-year right-to-match</p> <p>22 period, Zuffa had the ability to retain any fighter</p> <p>23 it wanted to keep after the term of the exclusive</p> <p>24 agreement for up to 15 months, provided Zuffa was</p> <p>25 willing to match an offer from another promotion,</p>

<p style="text-align: right;">Page 82</p> <p>1 bonuses for fighters? In other words, it 2 wouldn't be one fighter get \$30,000 for that 3 same fight versus another fighter get \$50,000, 4 right?</p> <p>5 THE WITNESS: It could be the first 6 fight of the night or the main event. It 7 would be the same.</p> <p>8 THE COURT: But I mean in terms of for 9 the different fighters, fighters themselves, 10 you wouldn't have different bonus amounts --</p> <p>11 THE WITNESS: No.</p> <p>12 THE COURT: -- for different fighters 13 for those types of bonuses, right?</p> <p>14 THE WITNESS: It was the same for 15 everyone.</p> <p>16 THE COURT: Okay. And were fighters 17 allowed to negotiate the bonuses, those types 18 of bonuses?</p> <p>19 THE WITNESS: No. There was a -- it 20 did evolve. There was a time where a bonus 21 amount was different from show to show based 22 on how big the show was. But that caused a 23 problem, which I solved, where it was just 24 like, well, your people, maybe they're not the 25 highest ranked guy, but they're very exciting,</p>	<p style="text-align: right;">Page 84</p> <p>1 could have him on an exciting fight. But 2 there would be certain shows, like, hey, Joe, 3 I want you on the show, he's like, yeah, I'd 4 rather wait for the Pay-Per-View. I was 5 like -- you know, at first you're like, but 6 why, this is a good spot for you and it shows 7 you off. He's like, hey, man, I'm all about 8 the bonuses, you have that -- you're only 9 offering \$30,000 for a show this size, and I'd 10 rather wait to Pay-Per-View where it's 11 \$60,000.</p> <p>12 THE COURT: Because the bonus for the 13 one event could be substantially higher, it 14 could in fact be more than they might get paid 15 for their -- whatever the win amount is, 16 right?</p> <p>17 THE WITNESS: Correct. And multiple 18 times it even happened where you got two 19 bonuses, the person got the fight of the 20 night, so they got 50,000 for that, and they 21 got performance of the night because it was 22 the best fight and they had a spectacular 23 knockout in it, so they got an extra \$100,000 24 for that fight.</p> <p>25 THE COURT: Okay. Thank you for</p>
<p style="text-align: right;">Page 83</p> <p>1 and they get bonuses, and he doesn't want to 2 go out and fight on this small show, because 3 lesser bonuses, and he's a bonus machine. So 4 to avoid people wanting to skip shows because 5 the bonuses are different, it's like let's 6 just make them all standard for all the shows.</p> <p>7 THE COURT: And about when did you do 8 that?</p> <p>9 THE WITNESS: I'm so bad with time 10 frames.</p> <p>11 THE COURT: Before or after 12 Strikeforce?</p> <p>13 THE WITNESS: Probably after, that it 14 became more uniform.</p> <p>15 THE COURT: Right after that?</p> <p>16 THE WITNESS: Not right after, but --</p> <p>17 THE COURT: But around that --</p> <p>18 THE WITNESS: I think it came about 19 simply because we were starting to notice that 20 this trend was happening with certain fighters 21 avoiding certain shows.</p> <p>22 THE COURT: I see.</p> <p>23 THE WITNESS: And it was based on the 24 bonuses. Like Joe Lauzon, he never fought for 25 a title, he was always an exciting guy, you</p>	<p style="text-align: right;">Page 85</p> <p>1 explaining that.</p> <p>2 BY MS. GRIGSBY:</p> <p>3 Q But just to touch upon it, there's more in 4 this spreadsheet than just bonuses; is that right?</p> <p>5 A Correct.</p> <p>6 Q So did some fighters negotiate, say, for 7 example, signing bonuses?</p> <p>8 A Yes.</p> <p>9 Q Did UFC have different negotiations 10 regarding incidentals for fighters?</p> <p>11 A Yes, for some.</p> <p>12 Q Can you just give an example of what the 13 difference might be in those negotiations?</p> <p>14 A Well, standard, we would fly the fighter and 15 the cornerman to the show, they would share a 16 hotel, they would both get per diem. And there 17 would be certain fighters when they achieved a 18 higher stature, that they're like, look, I really 19 need two cornermen, and they need their own hotel 20 room.</p> <p>21 You did have to be pickier about that simply 22 because we were only allotted so many hotel rooms 23 by the casino, but there would be some where there 24 would be some wiggle room for that.</p> <p>25 Q And you also mentioned Pay-Per-View, that</p>

<p style="text-align: right;">Page 86</p> <p>1 some athletes negotiated shares of Pay-Per-View      2 revenues; is that correct?      3 A Correct. Some fighters would get a piece of      4 the Pay-Per-View.      5 Q So can you describe generally how did that      6 work to negotiate a piece of the Pay-Per-View?      7 A So if you've got -- if a fighter is to the      8 stature of where that was a possibility, generally      9 I would refer them to Dana or Lorenzo. But if they      10 granted them that, say they were the champion, when      11 they defended their title, they would get a      12 percentage of Pay-Per-View over a certain base      13 level.</p> <p>14 Q And when you negotiated Pay-Per-Views, did      15 athletes ever ask you about Zuffa's actual or      16 expected revenue for an event?</p> <p>17 A No.</p> <p>18 Q All right. So then I just want to go back      19 to -- you mentioned that there was a minimum pay.      20 And plaintiff showed you JCCX-8. Do you recall      21 that?</p> <p>22 A Yes.</p> <p>23 Q Now, did you create that slide dec, JCCX-8?</p> <p>24 A I did not.</p> <p>25 Q And do you know --</p>	<p style="text-align: right;">Page 88</p> <p>1 to show it now. I just wanted to -- you to      2 identify it for the record.      3 BY MS. GRIGSBY:      4 Q So for JCCX-8, did you create any of these      5 slides?      6 A No.      7 Q And do you know -- let's turn to the      8 assumptions. When it talks about greater than or      9 equal to -- for Tier 2, greater than or equal to      10 17K, less than 30K, do you know where those numbers      11 are coming from?      12 A I don't.      13 Q Okay.</p> <p>14 THE COURT: And I'm sorry, who was the      15 person who prepared this document?</p> <p>16 THE WITNESS: Denitza Batchvarova.</p> <p>17 THE COURT: And what was her role?</p> <p>18 THE WITNESS: She would do, like,      19 financial projections and stuff for Zuffa.</p> <p>20 THE COURT: So she would have access to      21 all the contracts and information in the      22 contracts?</p> <p>23 THE WITNESS: Correct.</p> <p>24 THE COURT: Okay. So she would have      25 known this information about what all the</p>
<p style="text-align: right;">Page 87</p> <p>1 THE COURT: So Ms. Grigsby --      2 MS. GRIGSBY: Sure.      3 THE COURT: -- just so we're clear, do      4 you mind putting that up on the screen?      5 MS. GRIGSBY: Oh, sure. I'm sorry.      6 Would you put up --      7 THE COURT: Is that the Moving the      8 Minimums?      9 MS. GRIGSBY: Correct. Yeah.      10 THE COURT: Okay. I just wanted to      11 make sure you're referencing and I'm      12 referencing --      13 MS. GRIGSBY: Yes.      14 THE WITNESS: -- we're talking about      15 the same --      16 MS. GRIGSBY: Yes.      17 THE COURT: So it's Moving the Minimums      18 sheet that had the different scales as well as      19 that tier column. Is that the one you're      20 talking about?      21 MS. GRIGSBY: Correct.      22 THE COURT: And, Mr. Silva, that's what      23 you understand to be the document?      24 THE WITNESS: Yes.      25 THE COURT: That's fine. We don't need</p>	<p style="text-align: right;">Page 89</p> <p>1 fighters were being paid, because she would      2 have access to it as a financial person inside      3 of Zuffa; is that correct?      4 THE WITNESS: But she's trying to make      5 projections on --      6 THE COURT: Okay. But first answer      7 that question. She would have had access to      8 all the fighter contracts and their amounts?      9 THE WITNESS: Yes.      10 THE COURT: Okay. So she could create      11 a chart based upon that information, correct?      12 THE WITNESS: The information we had at      13 the time, yes.      14 THE COURT: Okay. I understand you're      15 saying that you don't -- you may or may not      16 have agreed with how it was put together, but      17 she had access to that information, to include      18 all of the contracts for all of the fighters      19 for UFC at the time?      20 THE WITNESS: Yes.      21 THE COURT: Okay. Thank you.      22 Go ahead.      23 BY MS. GRIGSBY:      24 Q But do you know how she put together this      25 information? Do you actually know that she</p>

<p style="text-align: right;">Page 90</p> <p>1 consulted with all these contracts?</p> <p>2 A I don't know.</p> <p>3 Q Okay. So let's talk a little bit about the</p> <p>4 minimum compensation, just to be clear.</p> <p>5 You mentioned that untested fighters or new</p> <p>6 fighters, some of them received \$10,000 as a start</p> <p>7 for their first contract.</p> <p>8 Would those same fighters receive a second</p> <p>9 amount for their second contract with the UFC?</p> <p>10 A If they --</p> <p>11 Q Like a second starting point. Sorry.</p> <p>12 So talking about not the first contract, but</p> <p>13 the second contract.</p> <p>14 A There was no set second contract.</p> <p>15 Q So there was no minimum for the second</p> <p>16 contract with the UFC; is that right?</p> <p>17 A No.</p> <p>18 Q Okay.</p> <p>19 A The only minimum at that point was the 10</p> <p>20 and 10 that was established.</p> <p>21 Q And would you say athletes generally signing</p> <p>22 their second contracts with the UFC received</p> <p>23 similar amounts for show and win payments?</p> <p>24 A I'm sorry, repeat that.</p> <p>25 Q Would you say that athletes signing their</p>	<p style="text-align: right;">Page 92</p> <p>1 multiplied deal, and way before his deal was up</p> <p>2 received a huge jump in pay simply because Dana</p> <p>3 just saw a lot of potential in him.</p> <p>4 Q Okay. So I want to go back to the PCCX-391,</p> <p>5 which is -- can we put 391 up, please. And</p> <p>6 that's -- I'll just take minute, but it's the</p> <p>7 e-mail exchange between Bas Boon about John --</p> <p>8 A Olav Einemo.</p> <p>9 Q Einemo.</p> <p>10 Now, just to be clear, plaintiffs have asked</p> <p>11 you a number of questions. But when you said, "I</p> <p>12 have a pay structure, I cannot mess it up for one</p> <p>13 fighter," did that mean to you that Zuffa had a pay</p> <p>14 structure?</p> <p>15 A No, Zuffa did not have a pay structure.</p> <p>16 Q Why do you say that?</p> <p>17 A Well, because my opinion of what somebody</p> <p>18 was worth was not the same as what Dana thought</p> <p>19 they were worth or Lorenzo thought they were worth</p> <p>20 or Sean thought they were worth. There's no, like,</p> <p>21 written or set structure or anything.</p> <p>22 Me saying "structure," I'm just talking</p> <p>23 about my logical framework of how I justified; that</p> <p>24 if Dana came to me and said, why are you paying</p> <p>25 this guy this, that I could then go, I'm paying him</p>
<p style="text-align: right;">Page 91</p> <p>1 second contracts with the UFC would always receive</p> <p>2 similar amounts for their show and win payments in</p> <p>3 their second?</p> <p>4 A No.</p> <p>5 Q Why not?</p> <p>6 A Because it would depend -- well, if you</p> <p>7 fought three fights, it would depend on what you</p> <p>8 did in those three fights. It's very different if</p> <p>9 you won all three fights, if you lost all three</p> <p>10 fights, if you had a mix in between, if you won</p> <p>11 those fights in an exciting fashion, the level of</p> <p>12 competition that you were fighting in those three</p> <p>13 fights would affect your next deal.</p> <p>14 Q Okay. And were there instances where</p> <p>15 fighters had, say, for example, losses, who might</p> <p>16 receive more on those second contracts than</p> <p>17 fighters who might have had a slightly better</p> <p>18 record?</p> <p>19 A Yes.</p> <p>20 Q Can you give some examples?</p> <p>21 A Off the top of my head, I'm not sure. There</p> <p>22 are so many that -- to remember, had they that</p> <p>23 early on in their career, if they lost and come up.</p> <p>24 But we certainly had more popular people. There's</p> <p>25 examples like Sage Northcutt, who was signed to a</p>	<p style="text-align: right;">Page 93</p> <p>1 this because of this, this and this.</p> <p>2 THE COURT: Well, you try to be</p> <p>3 consistent, right, Mr. Silva?</p> <p>4 THE WITNESS: Correct. I try to have a</p> <p>5 consistent logic. Now, those numbers would</p> <p>6 change depending on the circumstances.</p> <p>7 THE COURT: Well, right. They would</p> <p>8 change based upon each fighter, obviously.</p> <p>9 But in terms of what you considered the early</p> <p>10 stage, you looked at their performance and</p> <p>11 their popularity as two of the main factors</p> <p>12 you considered, you didn't change</p> <p>13 consideration of those two main factors across</p> <p>14 the fighters, right?</p> <p>15 THE WITNESS: Right. But there are</p> <p>16 also other things. Like I said, if somebody</p> <p>17 had fought multiple late-notice fights. As</p> <p>18 long as they had some sort of thing that I</p> <p>19 could verbalize it --</p> <p>20 THE COURT: Well, I understand that. I</p> <p>21 understand that. What I'm saying is there</p> <p>22 would be a case that -- some of the fighters</p> <p>23 you would consider performance but not their</p> <p>24 popularity, and for other fighters you would</p> <p>25 just consider popularity. You wouldn't --</p>

<p style="text-align: right;">Page 94</p> <p>1 THE WITNESS: Well, it would weigh 2 differently. And that was a hard thing, where 3 this is more of an art than a science.</p> <p>4 THE COURT: Mr. Silva, you have to try 5 to listen to my question.</p> <p>6 You considered performance and 7 popularity for all of the fighters when you 8 assessed them, right?</p> <p>9 THE WITNESS: Yes.</p> <p>10 THE COURT: Okay. And you try to do 11 that analysis the same for the fighter; it 12 doesn't mean that it resulted in the same 13 contract, I'm not saying that meant that you 14 paid them all the same. What I'm saying is 15 that you tried to use those factors equally 16 across the fighters; you didn't try to weigh 17 them differently just based upon who the 18 fighter was.</p> <p>19 And I understand that the factor itself 20 might have come out differently in terms of 21 your analysis based on the fighter's 22 performance, but it's not as if, for example, 23 some fighters you would say, I'm not even 24 going to consider their performance at all, 25 for example. You would never do that, right?</p>	<p style="text-align: right;">Page 96</p> <p>1 A No. We differed greatly oftentimes. 2 Q And did you have any -- you mentioned you 3 didn't have any guidance. But did you have any 4 framework that told you, all four of you, how much 5 you should be offering a particular fighter based 6 on performance or popularity?</p> <p>7 A No. 8 Q And you mentioned there were times that you 9 disagreed; is that correct?</p> <p>10 A Correct. 11 Q Did you ever receive even like an e-mail 12 that said this is the structure that we're going to 13 use going forward to negotiate with athletes to 14 determine how much to offer that athlete?</p> <p>15 A No. 16 Q And if there was such a policy, would you 17 have known about it in the course of your job as 18 vice president of talent and relations?</p> <p>19 A I would think so, because I was signing so 20 many contracts, I would have to know. 21 Q And when you talked about using objective 22 factors, if you didn't agree, would those factors 23 be the same for everybody who was negotiating 24 contracts?</p> <p>25 A No.</p>
<p style="text-align: right;">Page 95</p> <p>1 THE WITNESS: Correct.</p> <p>2 THE COURT: Okay. That's what I'm 3 saying. I just want to get a sense of the 4 application of the fact that you tried to use 5 the same factors so you could be consistent, 6 and then you could justify, as you said, why 7 you paid, for example, different fighters 8 different amounts; is that right?</p> <p>9 THE WITNESS: Correct.</p> <p>10 THE COURT: Okay. All right. That's 11 helpful. Thank you. Go ahead, Ms. Grigsby.</p> <p>12 BY MS. GRIGSBY:</p> <p>13 Q Just to be clear, though, how many different 14 people negotiated contracts besides yourself with 15 athletes?</p> <p>16 A There was me, Sean Shelby, Dana, Lorenzo. 17 Sometimes they might hand one off to one of the 18 lawyers, but generally they would, like, give them 19 the terms, they'd just kind of be in between. But 20 we were the four main people, me, Sean, Dana and 21 Lorenzo.</p> <p>22 Q And when you talk about you, Sean, Dana, 23 Lorenzo, which is four people, did you always agree 24 on how much a fighter was worth or how much would 25 be offered to a fighter?</p>	<p style="text-align: right;">Page 97</p> <p>1 THE COURT: Well, Mr. Silva, my 2 understanding from your earlier testimony was 3 that you negotiated most of the contracts, and 4 the high-level contracts were left to 5 Mr. White and Mr. Fertitta, but most of the 6 contracts -- most of the lower fights, I take 7 it, were left to you as one of the main people 8 doing the negotiations; is that right?</p> <p>9 THE WITNESS: No. I mean, Sean Shelby 10 did probably 40 percent. Between me and Sean, 11 the ones that Dana and Lorenzo did do, we 12 probably split 60/40.</p> <p>13 THE COURT: I see. So they would 14 negotiate -- Mr. White and Fertitta, they 15 would negotiate some of the top fighters; is 16 that correct?</p> <p>17 THE WITNESS: Right.</p> <p>18 THE COURT: In terms of the fighters 19 below that, it was then you and Mr. Shelby, 20 and you said as related to that split between 21 you and Mr. Shelby, it was about you doing 22 60 percent, Mr. Shelby about 40 percent?</p> <p>23 THE WITNESS: That seems about right.</p> <p>24 THE COURT: Okay.</p>

1 BY MS. GRIGSBY:

2 Q And did you --

3 THE COURT: And hold on just a second,  
4 Ms. Grigsby.

5 MS. GRIGSBY: Okay.

6 THE COURT: So did you and Mr. Shelby  
7 have vastly different ways of evaluating  
8 fighters, so if one fighter came to you with  
9 essentially the same types of popularity and  
10 performance, they'd get one number, and they'd  
11 get a different number from Mr. Shelby?

12 THE WITNESS: It didn't happen. It  
13 would go because of -- I didn't want to create  
14 confusion, I'd seen how they work in other  
15 promotions, so we tried to not do what I call  
16 crossing the streams.

17 THE COURT: Right. But --

18 THE WITNESS: I left Sean's guys to  
19 Sean. But if he gave them a deal, like, they  
20 didn't like, they would try to come to me, and  
21 I'd be like, no, that's not -- you're Sean's  
22 guy, not my guy, I'm not dealing with that.

23 THE COURT: Well, and was Mr. Shelby,  
24 as far as you know, considering other factors  
25 besides performance and popularity?

1 ones that he used, yes.

2 THE COURT: Because I want to  
3 understand. It's not as if, for example, if  
4 I'm saying this -- otherwise you'd have, it  
5 seems to me, some sort of competition that  
6 you -- one fighter could come to you and get a  
7 10, 10, or a 15, 15 contract, and go to him  
8 and get a 22 and 22 or whatever the number  
9 would be contract?

10 THE WITNESS: He could not.

11 THE COURT: Okay. So there would be  
12 some sense of at least consistency as it  
13 relates to the application? It's not as if  
14 you had vastly different ways in which the  
15 same type of fighter would be given a  
16 contract, is it?

17 THE WITNESS: They could not, because  
18 we didn't deal with the same fighters.

19 THE COURT: Okay. So help me  
20 understand. So in other words, you're saying  
21 that once a fighter had a contract negotiated  
22 with you, then typically you would be the one  
23 to renegotiate that fighter's contract?

24 THE WITNESS: Yes. Sean had his weight  
25 classes. He did 145, 135, 125 pound men's and

1 THE WITNESS: No. But our opinion of  
2 what those are, what he might find to be  
3 exciting or interesting or not, but I did,  
4 that would happen all the time. When we had  
5 to determine the of-the-night bonuses, we'd  
6 fight like cats and dogs about that.

7 THE COURT: I understand that. But  
8 it's your understanding that Mr. Shelby was  
9 also looking at performance and popularity  
10 when he determined what to pay fighters,  
11 wasn't he?

12 THE WITNESS: There's also, like,  
13 potential. That's a big part of what you  
14 would pay --

15 THE COURT: Mr. Silva, again, try to  
16 listen to my question.

17 Did you understand that Mr. Shelby was  
18 also using popularity and performance as  
19 measures to determine what to pay fighters?

20 THE WITNESS: Yes, I understood the  
21 question, and I'm trying to explain --

22 THE COURT: It's a yes-or-no question.  
23 So did he also use those factors or did

24 he not?

25 THE WITNESS: Those are part of the

1 the women's divisions. I did not touch those  
2 classes, never ever.

3 THE COURT: Right. Okay. So you had  
4 your own sort of categories that you looked  
5 at?

6 THE WITNESS: Yes.

7 THE COURT: Okay. Now I get it. Okay,  
8 Thank you.

9 Go ahead, Ms. Grigsby.

BY MS. GRIGSBY:

Q And you were mentioning something about  
potential. Would you say potential is the same  
thing as performance and popularity?

A No, because it's unknown. You know how  
popular someone is. You know what they've done.  
It's a whole different thing, you trying to guess  
what they might do in the future. That's a whole  
different thing. And that's where our opinions can  
vary greatly.

Q Did your opinion vary from Sean, Lorenzo  
Fertitta and Dana White about who had potential in  
terms of athletes?

A Yes.

Q So I want to look at Plaintiffs'  
Exhibit 365, if we could put that up.

<p style="text-align: right;">Page 102</p> <p>1        And this is the e-mail from February 12th,      2        2011, and the subject is "We own MMA." Correct?      3        So I just have a few questions, which is --      4        so here it's talking about the rankings. It's for      5        USA Today, SB Nation Consensus MMA Rankings.      6        What type of ranking is that in terms of MMA      7        athletes?</p> <p>8        A      What they would do is they would check a      9        bunch of other websites' rankings and then try to      10      come up with -- get an average using all these      11      other rankings that were done.</p> <p>12      Q      When you were looking at rankings -- or when      13      you looked at rankings, did you always refer to the      14      SB Nation Consensus MMA Rankings to determine an      15      athlete's ranking?</p> <p>16      A      Not always.</p> <p>17      Q      Where else would you look?</p> <p>18      A      There was a bunch of different -- you know,      19      Sherdog would do rankings, or FightMetric. There      20      was a bunch of different rankings. So you kind of      21      checked them all out to see what they're doing, if      22      you agreed with them, disagreed with them.</p> <p>23      Q      And did rankings stay consistent, like, you      24      know, from, say, one month to the next?</p> <p>25      A      No.</p>	<p style="text-align: right;">Page 104</p> <p>1        about wage share. Are you familiar with the      2        concept of paying athletes a percentage of a      3        company's revenue?</p> <p>4        MR. CRAMER: Your Honor, may I object?</p> <p>5        There's -- first of all, Mr. Silva never put      6        in a declaration in this case. So the only      7        thing we have in the record from Mr. Silva are      8        his documents and the deposition. There are      9        no questions in the deposition about wage      10      share. There's nothing in the documents about      11      wage share. So now we're going to have this      12      lay witness testify apparently about an      13      economic concept that seems inappropriate and      14      brand new and --</p> <p>15      THE COURT: Okay. Ms. Grigsby, did he      16      ever previously testify about wage share?</p> <p>17      MS. GRIGSBY: He did not, but that's      18      the point. He is going to testify --</p> <p>19      THE COURT: So we're not going to allow      20      him to testify about it now.</p> <p>21      MS. GRIGSBY: So I just -- really, my      22      only question there is if he's even familiar      23      with it.</p> <p>24      THE COURT: Here's what I'm saying. I      25      really don't think it's fair to go down this</p>
<p style="text-align: right;">Page 103</p> <p>1        Q      How often would they change?</p> <p>2        A      They would change constantly. Even the UFC      3        rankings changed depending on who in the pool was      4        voting.</p> <p>5        Q      So the number of people who are ranked here,      6        would those necessarily have the same rankings in,      7        say, 6 or 12 months?</p> <p>8        A      No.</p> <p>9        Q      Just one other thing I wanted to point out.      10      So you were looking at the heavyweight rankings,      11      and it ranks them 1 through 23. And you mentioned      12      a couple of times, but who was the top Strikeforce      13      heavyweight on this consensus ranking?</p> <p>14      A      Fedor Emelianenko was in Strikeforce.</p> <p>15      Q      And did Fedor Emelianenko ever sign with the      16      UFC?</p> <p>17      A      He did not.</p> <p>18      Q      Did you try to sign Fedor?</p> <p>19      A      We did.</p> <p>20      Q      And you were never successful -- how long      21      did you try to sign Fedor?</p> <p>22      A      For quite a while. He was considered by      23      many to be the top heavyweight for a long time, so      24      we definitely tried to get him.</p> <p>25      Q      So I want to talk to you just a little bit</p>	<p style="text-align: right;">Page 105</p> <p>1        avenue if there hasn't been testimony.</p> <p>2        MS. GRIGSBY: Sure.</p> <p>3        THE COURT: Because what's going to      4        happen is we're going to end up -- there's      5        essentially a free-for-all for testimony as it      6        relates to things that he hasn't previously      7        testified about.</p> <p>8        So I'm going to sustain the objection.</p> <p>9        We'll move on.</p> <p>10      BY MS. GRIGSBY:</p> <p>11      Q      So when you were negotiating contracts with      12      athletes, did you know Zuffa's event revenues?</p> <p>13      A      I did not.</p> <p>14      Q      Were you ever told that you had a budget for      15      negotiating with fighters?</p> <p>16      A      I was not.</p> <p>17      Q      Were you ever told that you were spending      18      too much for compensation on fighters?</p> <p>19      A      I was not.</p> <p>20      Q      Now, plaintiffs have suggested that Zuffa      21      tried to maintain a certain set of its revenues as      22      compensation --</p> <p>23      MR. CRAMER: Your Honor --</p> <p>24      THE COURT: You're asking the question      25      in a different way, and so I just want to warn</p>

<p style="text-align: right;">Page 106</p> <p>1       you. All right. I gave you a little latitude      2       on the first few questions. Please, if I      3       sustain an objection, don't try to ask the      4       question in a different way, because that's      5       exactly what we're doing. So I sustained it.      6       Move on from this area.</p> <p>7       MS. GRIGSBY: Okay. I'll move on.</p> <p>8       THE COURT: And I'm going to strike      9       from the record all of his answers as it      10      relates to revenues in this case that were      11      just asked and answered. Go ahead.</p> <p>12      BY MS. GRIGSBY:</p> <p>13      Q    Well, just one question is: Did any athlete      14     ever ask to be paid based on revenue from an event?</p> <p>15      THE COURT: Sustained.</p> <p>16      BY MS. GRIGSBY:</p> <p>17      Q    Now, plaintiffs have asked you a little bit      18     about the right to match, Zuffa's right to match      19     athletes who brought offers. You recall that      20     testimony, correct?</p> <p>21      A    Correct.</p> <p>22      Q    And there you said that many of the      23     athletes, there was only a certain percent where      24     Zuffa chose not to match it; is that right?</p> <p>25      A    Correct.</p>	<p style="text-align: right;">Page 108</p> <p>1       Q    And did Zuffa try to retain Brandon Vera?      2       A    We made an offer to keep him. He was an      3       attractive athlete, he could fight heavyweight or      4       light heavyweight.</p> <p>5       Q    And so another thing that plaintiffs -- or      6       Mr. Cramer asked you about was the fact that you      7       often renegotiated contracts on the third fight.      8       So why did you renegotiate contracts on the      9       third or -- the third or the fourth -- third fight      10      of a four-fight deal?</p> <p>11      A    Well, I would prefer that the fighters would      12     stay in their contract so that I could immediately      13     turn them around into other shows.      14      The longer that you had negotiations outside      15     of contract, that was going to take longer before I      16     could put them in a show. I couldn't advertise a      17     fighter as being on a show if he was not actually      18     contracted to me.</p> <p>19      Q    And in terms of renegotiating after the      20     third fight, was it always you initiating that      21     negotiation?</p> <p>22      A    No. Quite often fighters would want to do a      23     new deal because they know that I would offer them      24     more money to do a new deal.</p> <p>25      Q    So can we pull up ZCCX-14? And I'm looking</p>
<p style="text-align: right;">Page 107</p> <p>1       Q    Now, can you list some of the athletes that      2       Zuffa did want to retain that you were unable to      3       retain and match?</p> <p>4       A    I mean, just off the top of my head, guys      5       like Ryan Bader, Rory MacDonald --</p> <p>6       MR. CRAMER: Your Honor, I'm going to      7       object here too. This is brand new. I've      8       actually asked him in his deposition, and he      9       said --</p> <p>10      THE COURT: Overruled. I asked him      11     about this, and he gave percentages.</p> <p>12      MR. CRAMER: Okay.</p> <p>13      THE COURT: He can go ahead and do      14     that. Go ahead.</p> <p>15      THE WITNESS: So we had fighters like      16     Rory MacDonald, Ryan Bader, Lyoto Machida,      17     Gegard Mousasi. There's a lot of fighters who      18     we made offers to keep, and they got better      19     offers and outbid us.</p> <p>20      THE COURT: Okay.</p> <p>21      BY MS. GRIGSBY:</p> <p>22      Q    And some of these fighters, where did they      23     end up competing?</p> <p>24      A    Those went to Bellator. But guys -- like,      25     Brandon Vera went to One FC.</p>	<p style="text-align: right;">Page 109</p> <p>1       at page 2 of 9.      2       So here, I'll just read it. It's to you      3       from --</p> <p>4       THE COURT: Okay. Why don't you just      5       ask it, just like I told Mr. Cramer.</p> <p>6       MS. GRIGSBY: Sure.</p> <p>7       BY MS. GRIGSBY:</p> <p>8       Q    Well, here it's about Tim Means. And it      9       says at the bottom: "I'd like to talk to you about      10      a new contract for Tim Means. He's three in on his      11      current four-fight deal. Hit me back at your      12      convenience."</p> <p>13      Is this an example of some -- a manager      14     trying to renegotiate before the fourth fight?</p> <p>15      A    Yes.</p> <p>16      Q    Okay. So can you look at the next page of      17     the exhibit. This is for a different fighter, and      18     I don't want to do violence to his name, but Daniel      19     Omielanczuk.</p> <p>20      A    Omielanczuk.</p> <p>21      Q    Yeah.      22      At the bottom it says -- it's from his      23     manager. And it says: "How are you doing? Daniel      24     did a job in UFC Fight Night 72. We are happy to      25     see his aggressive style and finish his night in 48</p>

<p style="text-align: right;">Page 118</p> <p>1 Q Fair enough.</p> <p>2 Q And you, with the fighters that you were</p> <p>3 negotiating with, attempted to be fair and slot the</p> <p>4 fighters in in terms of your view of their</p> <p>5 popularity and performance, right?</p> <p>6 A Correct.</p> <p>7 Q And Mr. Shelby tried to do the same, right?</p> <p>8 A Correct.</p> <p>9 Q And Mr. White tried to do the same with the</p> <p>10 people he was negotiating with, right?</p> <p>11 A Correct.</p> <p>12 Q And Mr. Fertitta, to the extent he was</p> <p>13 involved at all, he also tried to be fair, correct?</p> <p>14 A Correct.</p> <p>15 Q All right. Let's talk about --</p> <p>16 THE COURT: Excuse me just for a</p> <p>17 second.</p> <p>18 So, Mr. Silva, are you saying there was</p> <p>19 no communication with each other about what</p> <p>20 would be appropriate levels of compensation to</p> <p>21 offer? So you would never get e-mails from</p> <p>22 Mr. Shelby or Mr. White or Mr. Fertitta</p> <p>23 saying, I'm thinking of offering this fighter</p> <p>24 this amount, what do you think?</p> <p>25 Did that ever happen?</p>	<p style="text-align: right;">Page 120</p> <p>1 Lorenzo would mostly leave me alone. And then</p> <p>2 when Sean came in and was doing his weight</p> <p>3 classes, I wanted to do the same thing for</p> <p>4 him. Like, I think you're a smart guy, you</p> <p>5 know what you're doing, go do your thing.</p> <p>6 THE COURT: So essentially what you're</p> <p>7 saying is you both keep -- stay in your lane</p> <p>8 as it relates to your weight classes and what</p> <p>9 was being offered, because that was your</p> <p>10 expertise, and you didn't really spend a lot</p> <p>11 of time looking at fighters in his weight</p> <p>12 class, and he didn't spend a lot of time</p> <p>13 looking at fighters in your weight class as</p> <p>14 far as you know?</p> <p>15 THE WITNESS: Correct.</p> <p>16 THE COURT: Okay. Thank you. That</p> <p>17 helps.</p> <p>18 BY MR. CRAMER:</p> <p>19 Q And Mr. Shelby was experienced with his</p> <p>20 weight classes, and attempted to be consistent in</p> <p>21 his classes, right?</p> <p>22 A Sure.</p> <p>23 Q And you were experienced in your weight</p> <p>24 classes, and attempted to be consistent in your</p> <p>25 weight classes, correct?</p>
<p style="text-align: right;">Page 119</p> <p>1 THE WITNESS: Not that I recall.</p> <p>2 Especially with Dana and Lorenzo, there was</p> <p>3 contracts that I did not know about until I</p> <p>4 saw after I stopped working for UFC.</p> <p>5 THE COURT: Okay. So other than those</p> <p>6 two -- they're doing about 10 percent of the</p> <p>7 deals.</p> <p>8 Other than the deals they're doing,</p> <p>9 with you and Mr. Shelby, you're saying you</p> <p>10 never communicated about compensation levels.</p> <p>11 So in other words, you never said or he never</p> <p>12 said to you, I'm thinking of offering this</p> <p>13 fighter this amount, do you think that's fair</p> <p>14 or appropriate, what would you do? That never</p> <p>15 happened?</p> <p>16 THE WITNESS: I don't think so, because</p> <p>17 it was a little bit of apples and oranges. We</p> <p>18 did very different weight classes, so to judge</p> <p>19 a brand new women's weight class versus my</p> <p>20 much more established -- I had the oldest,</p> <p>21 largest weight classes. His weight classes</p> <p>22 were such a different thing, he wanted a</p> <p>23 different talent pool.</p> <p>24 You know, my job is that -- I kind of</p> <p>25 showed I knew what I was doing. So he and</p>	<p style="text-align: right;">Page 121</p> <p>1 A Correct.</p> <p>2 Q Okay. Let's talk about some of the</p> <p>3 different forms of payment that Ms. Grigsby asked</p> <p>4 you about. She asked you about the</p> <p>5 fight-of-the-night bonus. There were some other</p> <p>6 kinds of bonuses, like the knockout-of-the-night</p> <p>7 bonus, right?</p> <p>8 A Right.</p> <p>9 Q There was also a Pay-Per-View payment,</p> <p>10 correct?</p> <p>11 A Correct.</p> <p>12 Q Now, is it fair to say that -- and you said</p> <p>13 that one of the issues with the show and the win</p> <p>14 payment was the fact those were set in advance of</p> <p>15 the fight?</p> <p>16 A (Nods head up and down.)</p> <p>17 Q These -- the fight of the night, knockout of</p> <p>18 the night, Pay-Per-View, those happened after the</p> <p>19 fight, correct?</p> <p>20 A Correct.</p> <p>21 Q And the goal of those types of payment are</p> <p>22 really to try to align the actual fact of the</p> <p>23 performance and popularity with the compensation,</p> <p>24 right?</p> <p>25 A Well, the popularity had nothing to do about</p>

<p style="text-align: right;">Page 122</p> <p>1 it.</p> <p>2 Q Well, the Pay-Per-View?</p> <p>3 A No.</p> <p>4 Q Well, the fighter draws a lot of</p> <p>5 Pay-Per-View --</p> <p>6 A Oh, you're talking about the Pay-Per-View</p> <p>7 bonus?</p> <p>8 Q Yeah.</p> <p>9 A I thought you were saying of-the-night</p> <p>10 bonuses, sorry.</p> <p>11 Q Let's talk about the fight of the night and</p> <p>12 the knockout of the night.</p> <p>13 A Okay.</p> <p>14 Q Those are attempting to align the actual</p> <p>15 fact of the performance with the pay?</p> <p>16 A Correct.</p> <p>17 Q And the Pay-Per-View is, in part, attempting</p> <p>18 to align the actual fact of the popularity with the</p> <p>19 pay, correct?</p> <p>20 A Correct.</p> <p>21 Q Okay. Do you know the direction in terms of</p> <p>22 the average fight-of-the-night bonus per fighter</p> <p>23 from, like, 2007 forward, whether that went down</p> <p>24 substantially?</p> <p>25 A For the of-the-night bonuses?</p>	<p style="text-align: right;">Page 124</p> <p>1 shown to you at your deposition, it was</p> <p>2 Exhibit 50 at your deposition. I'm just</p> <p>3 showing you because it actually -- put up the</p> <p>4 first page of the document.</p> <p>5 MS. GRIGSBY: So I'm going to object</p> <p>6 too because there is no foundation, just like</p> <p>7 that Joe Silva has testified about --</p> <p>8 THE COURT: Okay. I agree with you,</p> <p>9 Ms. Grigsby. Sustained.</p> <p>10 So, Mr. Cramer, if you want to</p> <p>11 establish a little bit of foundation as to</p> <p>12 whether or not this witness knows this</p> <p>13 document.</p> <p>14 MR. CRAMER: Okay. This is PCCX-88.</p> <p>15 And please take that down. Please take that</p> <p>16 down.</p> <p>17 Mr. Silva just testified about the</p> <p>18 amount -- the dollar amount of</p> <p>19 fight-of-the-night bonuses, and this document</p> <p>20 contains actual figures on --</p> <p>21 THE WITNESS: No, it doesn't.</p> <p>22 THE COURT: Well, the question is --</p> <p>23 MR. CRAMER: Okay.</p> <p>24 THE COURT: Hold on, Mr. Silva.</p> <p>25 It's not whether or not he was</p>
<p style="text-align: right;">Page 123</p> <p>1 Q Yes.</p> <p>2 A No. There was a time, as I said, I'm not</p> <p>3 sure exactly when it started, but that the</p> <p>4 of-the-night bonuses were different depending on</p> <p>5 the show. And then there was a time where they did</p> <p>6 away with that because fighters would want to avoid</p> <p>7 the smaller shows, they could fight for a bigger</p> <p>8 bonus, so then they made it standard for every show</p> <p>9 that it would be \$50,000.</p> <p>10 Q All right. I'd like to show you a document</p> <p>11 from 2015 that actually covers this issue. It's</p> <p>12 formatted similar to the minimum fight --</p> <p>13 A Uh-huh.</p> <p>14 Q -- payment document.</p> <p>15 So please put the first page of the document</p> <p>16 up.</p> <p>17 MR. CRAMER: And, Mr. Madden, can you</p> <p>18 identify the document?</p> <p>19 MR. MADDEN: He's working on it. I can</p> <p>20 give you the Bates number.</p> <p>21 MR. CRAMER: What's it called? Do you</p> <p>22 have it?</p> <p>23 MR. MADDEN: It's on your screen.</p> <p>24 MR. CRAMER: Oh, it's on my screen.</p> <p>25 Fighter Bonus Payment, February 2015. It was</p>	<p style="text-align: right;">Page 125</p> <p>1 involved. The question is whether or not he</p> <p>2 is aware of this particular document --</p> <p>3 MR. CRAMER: Okay.</p> <p>4 BY MR. CRAMER:</p> <p>5 Q Are you aware of this document?</p> <p>6 THE COURT: -- and what the figures</p> <p>7 are.</p> <p>8 MR. CRAMER: Fair enough, Your Honor.</p> <p>9 BY MR. CRAMER:</p> <p>10 Q Are you aware of this document? Have you</p> <p>11 seen it before?</p> <p>12 A I am aware of the document.</p> <p>13 Q Okay. You'd seen it during the course of</p> <p>14 your work at the UFC?</p> <p>15 A Right. Now, there was other bonuses, too,</p> <p>16 that were not discussed that were not fight of the</p> <p>17 night, and that's what I believe this chart</p> <p>18 references, that for a long period of time what</p> <p>19 would happen is after a show would end, the next</p> <p>20 day, for Monday, I would summarize the card to</p> <p>21 Dana, Lorenzo, Sean, and I'd say, here's what</p> <p>22 happened in every fight, and here's money that's</p> <p>23 not knockout of the night or fight of the night,</p> <p>24 here's extra bonuses that I think these guys are</p> <p>25 worth. And I would make suggestions, this guy</p>